

The Honorable Marsha J. Pechman

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

RYAN KARNOSKI, et al.,

Plaintiffs, and

STATE OF WASHINGTON,

Plaintiff-Intervenor,

V

DONALD J. TRUMP, in his official capacity
as President of the United States, *et al.*,

Defendants.

CASE No. 2:17-cv-01297-MJP

**DECLARATION OF DANIEL
SIEGFRIED IN SUPPORT OF
PLAINTIFFS' MOTION TO COMPEL
DEFENDANTS' DISCOVERY
WITHHELD UNDER THE
DELIBERATIVE PROCESS PRIVILEGE**

**NOTE ON MOTION CALENDAR:
May 25, 2017**

ORAL ARGUMENT REQUESTED

1 I, Daniel Siegfried, swear under penalty of perjury under the laws of the United States to the
 2 following:

3 1. I am counsel of record for Plaintiffs in this action, am over the age of 18, and am
 4 competent to be a witness. I make this declaration in support of Plaintiffs' Motion to Compel
 5 Defendants' Discovery Responses Withheld Under the Deliberative Process Privilege based on facts
 6 within my personal knowledge.

7 2. On December 29, 2017, Plaintiffs served their First Set of Interrogatories and First Set
 8 of Requests for Production on Defendants, true and correct copies of which are attached hereto as
 9 Exhibits 1 and 2. On January 26, 2018, Plaintiffs served their First Set of Requests for Admission on
 10 Defendants, a true and correct copy of which is attached hereto as Exhibit 3.

11 3. Defendants served responses to Plaintiffs' First Set of Interrogatories and First Set of
 12 Requests for Production on February 9, 2018. Defendants issued responses on behalf of Secretary
 13 James Mattis and the Department of Defense. A true and correct copy of those responses are attached
 14 hereto as Exhibits 4 and 5. Defendants also issued separate responses on behalf of President Donald
 15 Trump. A true and correct copy of those responses are attached hereto as Exhibits 6 and 7.

16 4. On February 23, 2018, my colleague Jordan Heinz sent a letter to Defendants' counsel
 17 regarding deficiencies in their responses to Plaintiffs' interrogatories and requests for production. A
 18 true and correct copy of that letter is attached hereto as Exhibit 8. Among other things, Plaintiffs'
 19 February 23, 2018 letter asked Defendants to withdraw their assertions of the deliberative process
 20 privilege and also to provide privilege logs identifying any documents withheld pursuant to the
 21 privilege. Defendants did not respond to this letter, supplement or amend their discovery responses,
 22 or accept any request to meet and confer.

23 5. On February 26, 2018, Defendants served responses to Plaintiffs' First Set of Requests
 24 for Admission, again serving one set of responses for Secretary Mattis and the Department of the
 25 Defense and another set for President Trump. True and correct copies of those responses are attached
 26 hereto as Exhibits 9 and 10.

27 6. On March 20, 2018, Defendants served 17 privilege logs on behalf of 6 entities: the
 28 Department of Defense, the Defense Health Agency, the Navy, the Army, the Air Force, and the

Chairman of the Joint Chiefs of Staff. Native versions of Defendants' privilege logs are submitted as Exhibits 11 through 27.

7. On April 26, 2018, I sent a letter to Defendants' counsel regarding their privilege logs, a copy of which is attached hereto as Exhibit 28. My letter reiterated Plaintiffs' request that Defendants withdraw their assertions of the deliberative process privilege entirely, and requested a meet and confer if Defendants were unwilling to do so.

8. On May 2, 2018, counsel for Plaintiffs and counsel for Defendants held a telephonic conference in compliance with Federal Rule of Civil Procedure 37 and Local Civil Rule 37(a)(1) to make a good faith effort to resolve the parties' dispute regarding the deliberative process privilege. The parties were unable to resolve their dispute regarding Plaintiffs' positions that (1) the deliberative process privilege does not apply in this case, and (2) the privilege, even if applicable, would not shield information and documents that are post-deliberative (*i.e.* after the President's July 26, 2017 tweets), non-deliberative (*i.e.* discussing how to implement the Ban following the President's decision), or factual.

I declare under the penalty of perjury that the foregoing is true and correct.

DATED: May 10, 2018

/s/Daniel Siegfried
Daniel Siegfried

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the United States of America and the laws of the State of Washington that all participants in the case are registered CM/ECF users and that service of the foregoing documents will be accomplished by the CM/ECF system on May 10, 2018.

 Jason B. Sykes, WSBA No. 44369
jason@newmanlaw.com
2101 Fourth Ave., Ste. 1500
Seattle, WA 98121
(206) 274-2800